



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.02.2022

Pronounced on : 30.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.OP(MD)No.17821 of 2021

and

CRL.MP(MD)No.9726 of 2021

Abdul Kather

... Petitioner /
Sole Accused

vs.

1.The State, rep.by
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.297 of 2018)

...1st respondent /
Complainant

2.Ponnusamy

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.PC, to call for the records in relating to the FIR in Crime No.297 of 2018 on the file of the first respondent police and to quash the same insofar as the petitioner is concerned.

For Petitioners : Ms.Porkodi Karnan
for Mr.P.Suresh Kumar
For Respondent No.1 : Shri.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

ORDER

This criminal original petition came to be filed for quashing the FIR in Crime No.297 of 2018 on the file of the Inspector of Police, Thiruppuvanam Police Station, Sivagangai District. The second respondent is the defacto complainant. Though attempts were made to serve on him both through private notice as well as through the police, the efforts were in vain. The case of the defacto complainant is that he is a coolie and that he was staying in the coconut grove belonging to one Ganesh Prabhu in September, 2018 and doing sundry works. On 13.09.2018 at around 05.30 A.M, when he was walking towards the tea shop in the Thiruppuvanam - Prammanur main road, a two wheeler ridden by the petitioner hit him from behind causing him injuries on the right leg. He was admitted in Government Hospital, Thiruppuvanam. He was taking further treatment in Madurai Jeyam Hospital. Intimation was sent to the first respondent police station from the said hospital. Based on the statement given by him in the hospital on 16.09.2018 at about 14.45 hours, the impugned FIR came to be registered for the offences under Sections 279 and 337 of IPC.



2. When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that the offences alleged against the petitioner carry the maximum punishment for a period of six months. Since the final report has not been filed within one year, the case deserves to be quashed. This assertion made by the learned counsel for the petitioner was disputed by the learned Additional Public Prosecutor appearing for the first respondent. I therefore called for report from the jurisdictional magistrate. A report was submitted before this Court vide letter bearing D.No.1681/2021 dated 24.11.2021 stating that the final report had not been filed in Crime No.297 of 2018 on the file of the Thiruppuvanam Police Station till 24.11.2021.

3. However, when I took up the matter for final disposal, it was reported that final report was filed on 29.11.2021 and the case was also taken on file as STC No.140 of 2021 on the file of the Judicial Magistrate, Thiruppuvanam. In a case of this nature, I would rather go by the position that obtained on the date of filing of the petition though normally subsequent developments are taken note of. The occurrence took place on 13.09.2018. FIR was registered on 16.09.2018. Final report was not filed within one year. No petition seeking extension of time under Section 473 of Cr.PC was filed before the jurisdictional magistrate.

4. In similar circumstances, a learned Judge of this Court vide order dated 14.07.2021 in CrI OP(MD)No.9290 of 2021 was pleased to quash an FIR. Let me quote from the said order verbatim :

"7. It is seen from the records that occurrence took place on 19.09.2019 and till now no Final Report has been filed. Also a petition seeking extension of time under Section 473 of Cr.PC has also not been filed before the concerned Court.

8. In view of the forgoing reasons, this Criminal Original Petition is allowed. Case in Crime No.102 of 2019 pending on the file of the Inspector of Police, Valanadu Police Station, Trichy is hereby quashed."

Respectfully following the very same approach, I quash the impugned prosecution ie., the proceedings in STC No.140 of 2021 on the file of the Judicial Magistrate, Thiruppuvanam. This criminal original petition is allowed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To:

1.The Judicial Magistrate, Thiruppuvanam.

2.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.SURESH KUMAR,Advocate (SR-15467[F] dated
30/03/2022)

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and
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MGJ(07.04.2022) 3P 5C